

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Shizuo AKIRA
U.S. Appln. No. : 10/517,663
U.S. Filing Date : August 31, 2005
Title of Invention : MODEL ANIMALS NON-RESPONSIVE TO
MYCOBACTERIA-ORIGIN LIPOPROTEIN/LIPOPEPTIDE
Examiner : Valarie Bertoglio
Art Unit : 1632

DECLARATION UNDER 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, SHIZUO AKIRA, DECLARE AND STATE THAT:

1. I am the inventor of the subject matter described and claimed in the present patent application.
2. A reference entitled, "Novel Engagement of CD14 and Multiple Toll-Like Receptors by Group B Streptococci" The Journal of Immunology, 167:7069-7076, 12/15/2001) (hereinafter "Henneke et al."), names eleven authors: Philipp Henneke, Osamu Takeuchi, Jos A. van Strijp, Hilde-Kari Guttormsen, Jason A. Smith, Andra B. Schromm, Terje A. Espevik, Shizuo Akira, Victor Nizet, Dennis L. Kasper, and Douglas T. Golenbock. As stated above, the inventor of the subject matter described and claimed in the present invention is S. Akira. Furthermore, the data contained in the Henneke et al. paper that pertains to the claimed subject matter of the present application is the work of the present inventor, S. Akira. Thus, the data presented in Henneke et al. is not the work of "others" as defined by 35 U.S.C. § 102(a).

3. As is known in the scientific community, persons are or are not included as authors on scientific articles for reasons that do not involve inventorship. The work reported in Henneke *et al.*, that may be common to the present application, was performed by or under the direction, supervision or control of the inventor S. Akira on the present application. Co-authors Philipp Henneke, Osamu Takeuchi, Jos A. van Strijp, Hilde-Kari Guttormsen, Jason A. Smith, Andra B. Schromm, Terje A. Espevik, Victor Nizet, Dennis L. Kasper, and Douglas T. Golenbock did not make an independent inventive contribution to the invention claimed in this application.

4. Thus, I am advised and therefore believe that since the relevant subject matter described in Henneke *et al.*, and claimed in the present application, is not the work of "others", this document is not available as a reference against the present patent application. I thus respectfully request that rejections based on this document be reconsidered and withdrawn.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

Date: 2007/2/14


SHIZUO AKIRA